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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/810,355    03/19/01    MUELLER

J    M304.12.1

EXAMINER

QM02/0910

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ART UNIT

PAPER NUMBER

3754  
DATE MAILED:

09/10/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/810,355**

Applicant(s)

**Mueller**

Examiner

**Thach Bui**

Art Unit

**3754**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☐ Responsive to communication(s) filed on \_\_\_\_\_

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-23 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) ☐ Other:

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. Applicants prior art citations filed June 27, 2001 has been received in place of records.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite because there is no clear or proper antecedent basis for "a member" recited in line 9. See claim 9 for the same informality.

Claim 1 is vague and indefinite because the transitional phrase "the improvement of:" recited in lines 9-10, is incorrect. It should be "the improvement comprising:". See claims 9 and 16 for the same informality.

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***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 9-10, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Krannak.

Krannak discloses a grease gun comprising a body (38), a base joined to the body (39), a barrel joined to the body (indicated as A) (see Figure 1), and a grease dispensing member connected to the barrel (see Figure 1). The device includes an elongated grease pumping chamber located in the body and barrel, and a grease supply passage in the base and body open to the pumping chamber to allow grease to flow into the pumping chamber (see Figure 1). The device comprises a check valve (34) connected to the barrel to prevent grease and air from flowing back from the grease dispensing member into the pumping chamber, and a plunger (33). The device includes a power unit operated with a supply of air under pressure (40) connecting to the body and plunger operable to reciprocate the plunger in the pumping chamber to pump grease through the pumping chamber and check valve into the grease dispensing member (33). The device further comprises a thread hole in the body aligned with the grease supply passage and open to the pumping chamber (37). A thread stem is located in the thread hole, wherein the stem having at least one linear side groove/or plurality side grooves open(s) to the pumping chamber

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and a head joined to the stem (see Figure 1). The head stem is rotatable in one direction whereby air in the pumping chamber and grease supply passage is bled therefrom (page 3, lines 4-10).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krannak in view of Barish.

Krannak has all the features of the invention but lacks an annual seal assembly. Barish teaches an annual seal assembly (71a) (see Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an annual seal assembly surrounding the stem when the stem closes the thread hole to prevent air leakage.

***Allowable Subject Matter***

8. Claims 4-8, 12-15, and 17-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al., Anderson, Foerst et al., are cited of general interest.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach Bui whose telephone number is (703) 305-0063. The examiner can normally be reached on Monday through Friday from 7:30 to 4:30 .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver, can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3588.

  
PHILIPPE DERAKSHANI  
PRIMARY EXAMINER

T.B.

September 5, 2001